

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	
)	
Petition of the Montana Public Service)	
Commission for Delegated Authority to Implement)	
Number Conservation Measures)	

ORDER

Adopted: May 23, 2013

Released: May 23, 2013

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) grants a petition filed by the Montana Public Service Commission (Montana PSC or petitioner) for delegated authority to implement mandatory thousands-block number pooling.¹ For reasons discussed below, we conclude that the Montana PSC has met the criteria established by the Federal Communications Commission (Commission) for delegation of authority to implement mandatory pooling in the 406 numbering plan area (NPA). Specifically, we find that the petitioner has demonstrated special circumstances justifying delegation of authority to require pooling in a numbering plan area forecasted to exhaust within the next five years. In granting this petition, we enable the state of Montana to optimize telephone number resources and further extend the life of the 406 NPA.

II. BACKGROUND

2. *Commission Rules and Orders.* In the *NRO First Report and Order*, the Commission determined that implementing thousands-block number pooling is essential to extending the life of the North American Numbering Plan (NANP) by making the assignment and use of NXX codes more efficient.² Therefore, the Commission adopted national thousands-block number pooling as a valuable

¹ See Montana Public Service Commission Petition for Delegated Authority to Implement Number Conservation Measures, CC Docket Nos. 99-200, 96-98 (filed Nov. 21, 2011) (Montana Petition); see also *Wireline Competition Bureau Seeks Comment on the Montana Public Service Commission's Petition for Delegated Authority to Implement Number Conservation Measures*, CC Docket Nos. 99-200, 96-98, Public Notice, 26 FCC Rcd 16931 (Wireline Comp. Bur. 2011). The Commission received no comments in response to the Public Notice.

² *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7625, para. 122 (2000) (*NRO First Report and Order*). The NANP, the basic numbering scheme for the United States, Canada, and most Caribbean countries, is based on a 10-digit dialing pattern, NPA-NXX-XXXX, where N represents any digit from 2 through 9 and X represents any digit from 0 through 9. Thousands-block number pooling is a telephone number resource optimization measure in which the 10,000 numbers in an NXX are divided into ten sequential blocks of 1,000 numbers and allocated to different service providers (or different switches) within a rate center. See *Numbering Resource Optimization*, CC Docket

mechanism to remedy the inefficient allocation and use of numbering resources and required thousands-block pooling in the largest 100 Metropolitan Statistical Areas (MSAs) within nine months of selection of a pooling administrator.³ The Commission also sought to shield consumers from the unnecessary expense and confusion related to premature area code splits or overlays caused by inefficient utilization of existing resources.⁴

3. The Commission allowed state commissions that previously had been given delegated authority to implement thousands-block pooling to continue to do so.⁵ The Commission stated that it would continue to consider state petitions for delegated authority to implement pooling outside the top 100 MSAs on a case-by-case basis.⁶ It delegated authority to the Common Carrier Bureau, now the Wireline Competition Bureau, to rule on state petitions for delegated authority to implement number conservation measures, including thousands-block number pooling, where no new issues were raised.⁷

4. In implementing thousands-block number pooling, the Commission said that state petitions for delegated authority must demonstrate three things: (1) that an NPA in the state is in jeopardy; (2) that the NPA in question has a remaining life span of at least one year; and (3) that the NPA is in one of the largest 100 MSAs or, alternatively, the majority of wireline carriers in the NPA are local number portability (LNP)-capable.⁸ The Commission recognized that there may be “special circumstances” where pooling would be of benefit in NPAs that do not meet all three criteria and said that pooling may be authorized in such an NPA upon a satisfactory showing by the state commission of such special circumstances.⁹

Nos. 99-200, 95-116, Fourth Report and Order, 18 FCC Rcd 12472, 12474, para. 5 (2003) (*NRO Fourth Report and Order*).

³ See *NRO First Report and Order*, 15 FCC Rcd at 7625, 7644-45, paras. 122, 157-58. MSAs, designated by the Census Bureau, follow geographic borders and are defined using statistics that are widely recognized as indicative of metropolitan character. See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Memorandum Opinion and Order, 12 FCC Rcd 8115, 8122, para. 17 n.26 (1997).

⁴ An area code split divides a geographic region into new, smaller regions that are assigned separate area codes. An area code overlay, by contrast, keeps the same geographic area but adds another area code, resulting in multiple area codes for the same geographic region. See *Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Petition of the Indiana Utility Regulatory Commission, et al. for Delegated Authority to Implement Number Conservation Measures*, CC Docket No. 99-200, Order, 25 FCC Rcd 5478, para. 1 (2010).

⁵ Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), allows the Commission to delegate to state commissions jurisdiction over telephone number administration. 47 U.S.C. § 251(e)(1).

⁶ See *NRO First Report and Order*, 15 FCC Rcd at 7651, para. 169. At the time the *NRO First Report and Order* was adopted, several states already had delegated authority to implement thousands-block pooling. *Id.* The Commission observed that the national pooling framework, when adopted, would supersede the interim delegations of authority to state commissions. *Id.*

⁷ See *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

⁸ See *id.*; see also *Numbering Resource Optimization*, CC Docket Nos. 99-200, 95-116, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252, 262, para. 21 n.47 (2001) (*NRO Third Report and Order*). In the *NRO Third Report and Order*, the Commission rejected a request to delegate authority to the states to determine on a case-by-case basis whether to extend pooling requirements. *NRO Third Report and Order*, 17 FCC Rcd at 262, para. 21. The Commission explained that uniform national standards for pooling are necessary to minimize confusion and additional expense related to compliance with inconsistent regulatory requirements. *Id.*

⁹ See *NRO First Report and Order*, 15 FCC Rcd at 7651-52, para. 170.

5. National rollout of thousands-block number pooling commenced on March 15, 2002, in the 100 largest MSAs and area codes previously subject to pooling pursuant to state delegation orders.¹⁰ All carriers operating within the 100 largest MSAs, except those specifically exempted by the order, were required to participate in thousands-block number pooling in accordance with the national rollout schedule.¹¹ The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III Commercial Mobile Radio Service (CMRS) providers that have not received a specific request for the provision of LNP from another carrier, as well as carriers that are the only service provider receiving numbering resources in a given rate center.¹² In exempting certain carriers from the pooling requirement, the Commission recognized that pooling is most effective in areas where competition exists.¹³ The Commission directed the North American Numbering Plan Administrator (NANPA) to cease assignment of NXX codes (blocks of ten-thousand numbers) to carriers after they were required to participate in pooling.¹⁴ Instead, carriers required to participate in pooling would receive telephone number resources from the national thousands-block number Pooling Administrator responsible for administering numbers in thousands-blocks.¹⁵

6. As discussed above, the Commission concluded that mandatory pooling should initially take place in the largest 100 MSAs.¹⁶ In the *Pooling Rollout Order*, the Bureau explained that it would consider extending pooling outside of the top 100 MSAs after pooling was implemented in the top 100 MSAs.¹⁷ The Bureau also encouraged voluntary pooling in areas adjoining qualifying MSAs.¹⁸ Since the completion of the national rollout of pooling in the top 100 MSAs, the Commission has extended pooling in response to petitions from state utility commissions requesting permission to expand the scope of thousands-block pooling.¹⁹

7. *The Montana Petition.* On November 21, 2011, the Montana PSC filed a petition for authority to implement mandatory thousands-block number pooling in the 406 NPA.²⁰ In its petition, the Montana PSC asserts that it has met the criteria for delegation of authority to implement pooling established by the Commission and that, in addition, special circumstances exist to justify such delegation.²¹ According to the Montana PSC, demand for number resources has increased and the 406 area code numbering resources are dwindling.²² The Montana PSC notes that the 406 area code currently

¹⁰ *Numbering Resource Optimization*, CC Docket No. 99-200, Order, 17 FCC Rcd 7347, 7348, paras. 3-4 (Wireline Comp. Bur. 2002) (*Pooling Rollout Order*).

¹¹ *See NRO Fourth Report and Order*, 18 FCC Rcd at 12477, para. 14.

¹² *See id.* at 12473, para. 1. Tier III carriers are non-nationwide CMRS providers with no more than 500,000 subscribers as of the end of 2001. *See id.* at 12479, para. 18 n.50.

¹³ *Id.* at 12476, 12478, paras. 11, 17.

¹⁴ *See id.* at 12477, para. 14.

¹⁵ *See id.*

¹⁶ *See NRO First Report and Order*, 15 FCC Rcd at 7645, para. 158.

¹⁷ *Pooling Rollout Order*, 17 FCC Rcd at 7348, para. 3.

¹⁸ *See id.* at 7348, para. 4.

¹⁹ *See Numbering Resource Optimization*, CC Docket No. 99-200, Order and Fifth Further Notice of Proposed Rulemaking, 21 FCC Rcd 1833 (2006); *Numbering Resource Optimization*, CC Docket No. 99-200, Order, 21 FCC Rcd 13188 (2006) (*Second Pooling Order*).

²⁰ Montana Petition at 1.

²¹ *Id.* at 3.

²² *See id.*

has only 100 NXXs remaining out of 776 originally available (*i.e.*, 87 percent of the available NXXs have been assigned). In addition, while the Montana PSC warns that the 406 area code is projected to exhaust in the second quarter of 2018, a more recent report reveals that the 406 area code is now projected to exhaust in the third quarter of 2017.²³

III. DISCUSSION

8. We delegate authority to the Montana PSC to implement mandatory thousands-block number pooling in the 406 NPA. We conclude that the Montana PSC has demonstrated that special circumstances warrant a delegation of authority to require pooling in the 406 NPA pursuant to the *NRO First Report and Order*.

9. *Pooling Authority Criteria.* As stated above, the Bureau may delegate pooling authority to a state when either all three criteria of the Commission's test are met, or special circumstances exist that would making pooling beneficial in an NPA.²⁴ First, we examine the three pooling authority criteria. Under the first prong, we find that the 406 NPA is not in jeopardy as defined by industry standards; therefore the first prong is not met.²⁵ Second, we find that the record demonstrates that the 406 NPA has a remaining life span of at least one year.²⁶ The 406 NPA is scheduled to exhaust in the third quarter of 2017; thus, the second prong is met. Third, we find that the Montana PSC has demonstrated that a majority of the providers within the 406 NPA are LNP capable,²⁷ and data from the Local Exchange Routing Guide confirm this assertion.²⁸ Accordingly, the third prong is also met. Because the first prong is not met, however, the Bureau cannot delegate authority to the Montana PSC relying on the three-prong test.

10. *Special Circumstances Showing.* While the Montana PSC does not meet all three pooling authority criteria, we also examine whether special circumstances exist that would make pooling beneficial. The petitioner demonstrates that the NPA in question is experiencing an increase in demand for numbering resources, coupled with low utilization rates. The Montana PSC notes, as proof of rising demand, that the 406 area code currently has only 100 NXXs, or 10,000 blocks, remaining out of 776 originally available (*i.e.*, 87 percent of the available NXXs have been assigned). In addition, the 406 NPA has 802 thousands-blocks assigned with 919 thousands-blocks available.²⁹ According to the

²³ See *id.*; see also NANPA Reports – NRUF, October 2012 NPA Exhaust Analysis (visited January 31, 2013) http://nanpa.com/pdf/NRUF/October_2012_NPA_Exhaust_Analysis.pdf.

²⁴ See *supra* para. 4.

²⁵ The NPA Code Relief Planning and Notification Guidelines (ATIS 03-00061) industry guidelines, state that an NPA is in jeopardy “when the forecasted and/or actual demand for CO Code resources will exceed the known supply during the planning/implementation interval for relief. Accordingly, pending exhaust of CO Code resources within an NPA does not represent a jeopardy condition if NPA relief has been or can be planned and the additional CO Codes associated with the NPA will be implemented in time to satisfy the need for new CO codes.” See section 16.0 of the NPA Code Relief Planning and Notification Guidelines (ATIS 03-00061) at page 24. An area code is placed in jeopardy by the NANP Administrator when there are not enough NXX codes available to last until relief is provided. As previously stated, the 406 area code is projected to exhaust in the third quarter of 2017.

²⁶ Montana Petition at 2.

²⁷ *Id.* The petitioner notes, however, that all wireline carriers in Montana are LNP capable except two small rural independent local exchange carriers, Hot Springs Telephone Company and Northern Telephone Cooperative. See Montana Petition at 2, note 6.

²⁸ See Telcordia Routing Administration, *Local Exchange Routing Guide* (updated January 2013).

²⁹ Nationally, pooling is mandated in certain areas (such as the top 100 Metropolitan Statistical Areas) and is optional in other areas. Service providers may voluntarily participate in thousands-block number pooling in an optional area. Optional pooling has been implemented in part of Montana, which is why some NXX's in the 406

petitioner, the demand for numbering resources in the 406 NPA has increased. It states that in 2011 alone, 235 of the 802 already assigned thousands-blocks and 17 of the 100 already assigned NXXs in the 406 NPA were assigned, a clear indication that the rate of demand for numbering resources has rapidly increased.³⁰

11. The Montana PSC argues that, in addition to this increased demand, carriers make inefficient use of the 406 area code number resources. For example, the petitioner states that 47 Montana carriers have only assigned 1.7 million lines out of the 6.2 million lines made available to them, for a utilization factor of 26 percent.³¹ According to the petitioner, this is the third lowest utilization factor in the United States behind North Dakota and South Dakota. The petitioner argues that Montana's low utilization factor is due in part to the fact that Montana does not have mandatory number pooling. Finally, while the 406 NPA is not in jeopardy, it is projected to exhaust in the third quarter of 2017, in just four years. The Commission has recognized that there may be special circumstances where an NPA is projected to exhaust within five years.³²

IV. CONCLUSION

12. Although it has failed to satisfy the first prong in the Commission's three prong test, the Montana PSC has demonstrated that there are special circumstances justifying delegation of authority to implement mandatory pooling in the 406 NPA. Furthermore, we expect that pooling will be beneficial in extending the life of that NPA. Given that the 406 NPA has a low utilization rate, is expected to exhaust within the next five years, and many carriers are not participating in optional pooling, it is most efficient and in the public interest to permit the Montana PSC to implement mandatory thousands-block number pooling. The petitioner observes, and we agree, that mandatory thousands-block number pooling would extend the life of the 406 NPA by putting to use resources that otherwise would be stranded.³³

13. We conclude that denying this petition would accelerate number exhaust by allowing carriers to continue requesting blocks of 10,000 numbers, when far fewer numbers are needed to serve their customers. We also conclude that denying its petition would be an inefficient use of resources since the Montana PSC would have to refile the petition in the near future, when the 406 NPA becomes in jeopardy. We believe that strict application of the jeopardy requirement would impair the petitioner's ability to optimize number resources.³⁴ Therefore, for the reasons stated above, we hereby grant the Montana PSC authority to implement mandatory thousands-block number pooling in the 406 NPA.

NPA have thousands-blocks assigned and available. The Montana PSC seeks to implement pooling throughout the state.

³⁰ Montana Petition at 2-3.

³¹ The petitioner states that the 47 carriers in Montana are comprised of 38 wireline carriers and nine mobile carriers. According to the petitioner, the 38 wireline carriers have assigned 0.9 million out of 4.3 million lines available to them for a utilization rate of 20 percent. The petitioner contrasts this with the wireless carriers' higher utilization rate of 41 percent for assigning 0.8 million of the 2 million lines available to them.

³² *In the Matter of Numbering Resource Optimization Petition for Delegated Authority by the Public Utilities Commission of Ohio et al.*, CC Docket No. 99-200, Order, 21 FCC Rcd 13188, 13193 at para. 11.

³³ Montana Petition at 2, 5.

³⁴ See *Numbering Resource Optimization*, CC Docket No. 99-200, Order and Fifth Further Notice of Proposed Rulemaking, 21 FCC Rcd at 1837, para. 11 (2006); *Second Pooling Order*, 21 FCC Rcd at 13193, para. 11.

V. ORDERING CLAUSES

14. ACCORDINGLY, pursuant to the authority contained in sections 1, 4(i), and 251 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 251, and sections 0.91, 0.291 and 52.9(b) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 52.9(b), IT IS ORDERED that the Montana PSC's Petition for Delegated Authority to Implement Number Conservation Measures filed on November 21, 2011 IS GRANTED to the extent discussed herein.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief
Wireline Competition Bureau